



DEPARTMENT OF COMMERCE
International Trade Administration
[A-533-824]

Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from India. This review covers three respondents, Jindal Poly Films Ltd (Jindal), Polyplex Corporation Ltd. (Polyplex), and SRF Limited (SRF), producers and exporters of PET Film from India. The Department preliminarily determines that Jindal and Polyplex did not make sales of PET Film from India at below normal value (NV) during the July 1, 2010, through June 30, 2011, period of review (POR). The preliminary results are listed below in the section titled “Preliminary Results of Review.” Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: [Insert the date of the publication of the Federal Register].

FOR FURTHER INFORMATION CONTACT: Elfi Blum, or Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0197 or (202) 482-1398, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, the Department published in the Federal Register the antidumping duty order on PET Film from India.¹ On July 1, 2011, the Department published a notice of opportunity to request an administrative review of the order.² In response, the Department received a timely request from Petitioners³ for an antidumping administrative review of five companies: Ester Industries Limited (Ester); Garware Polyester Ltd. (Garware); Jindal; Polyplex; and SRF. The Department also received timely requests for an antidumping review from Vacmet India Ltd. (Vacmet) and Polypacks Industries of India (Polypacks). On August 26, 2011, the Department published a notice of initiation of administrative review with respect to Ester, Garware, Jindal, Polyplex, SRF, Vacmet, and Polypacks.⁴ On August 23, 2011, Vacmet and Polypacks withdrew their requests for a review. The Department published a rescission, in part, of the antidumping administrative review with respect to Vacmet and Polypacks on September 20, 2011.⁵ On September 1, 2011, the Department placed U.S. Customs and Border Protection (CBP) data covering the POR on the record of this review.⁶ On October 21, 2011, the Department selected Jindal and Polyplex as the two mandatory

¹ See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India, 67 FR 44175 (July 1, 2002).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 76 FR 38609 (July 1, 2011).

³ Petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc.

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 76 FR 53404 (August 26, 2011).

⁵ See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, In Part, of Antidumping Duty Administrative Review, 76 FR 58244 (September 20, 2011).

⁶ See Memorandum to All Interested Parties, from Toni Page: Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: U.S. Customs Entries, dated September 1, 2011. Effective August 2011, public documents and public versions of proprietary Departmental memoranda referenced in this notice are on file electronically on Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS), accessible via the Central Records Unit, Room 7046 of the main Commerce building and on the web at <http://ia.ita.doc.gov/frn/>.

respondents in this review.⁷ Subsequently, on November 25, 2011, Petitioners timely withdrew their request for administrative reviews of Ester and Garware, and the Department published a rescission, in part, of the antidumping administrative review with respect to these two companies on January 25, 2012.⁸ Thus, the remaining respondents in this review are the two selected respondents Jindal and Polyplex, and the non-selected respondent, SRF.

The Department issued the original questionnaires to the two selected respondents on November 9, 2011. Jindal and Polyplex timely submitted their section A questionnaire responses on December 12, 2011 and December 13, 2011, respectively. On December 28, 2011, Jindal timely filed responses to sections B and C; on January 9, 2012 Jindal filed its section D response. Polyplex timely filed its responses to sections B, C, and D on January 5, 2012. On February 15, 2012, Petitioners filed comments on Jindal's and Polyplex's questionnaire responses. On March 12, 2012, the Department extended the time period for issuing the preliminary results of this administrative review.⁹ Between March and July 2012, the Department issued several supplemental questionnaires separately on sections A, B, and C, and section D, to both Jindal and Polyplex requesting additional information. All responses were timely submitted. On July 13, 2012, Petitioners filed targeted dumping allegations for both Jindal and Polyplex. For purposes of these preliminary results the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-average dumping margins for the mandatory respondents, the Department applied the calculation methodology adopted in

⁷ See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from Elfi Blum and Toni Page, Import Compliance Analysts: Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet and Strip from India: Respondent Selection Memorandum, dated October 21, 2011.

⁸ See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, in Part, of Antidumping Duty Administrative Review, 77 FR 3730 (January 25, 2012).

⁹ See Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 77 FR 14501 (March 12, 2012).

Final Modification for Reviews.¹⁰ In particular, the Department compared monthly weighted-average export prices (EPs) (or constructed export prices (CEPs)) with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margins. Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(c), whether another method is appropriate in these administrative reviews in light of the parties' pre-preliminary comments and any comments on the issue that parties may include in their case and rebuttal briefs.

In addition, we note that serious issues with certain companies exist concerning the reconciliation of the quantities of subject merchandise suspended with the quantities reported exported, and the Department intends to investigate those issues further.

Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

¹⁰ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews).

Period of Review

The POR is July 1, 2010, through June 30, 2011.

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Jindal's and Polyplex's home market sales of the foreign like product to the volume of their U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act). Based on this comparison, we determined that both Jindal's and Polyplex's home markets were viable during the POR.

Product Comparisons

Pursuant to section 771(16)(A) of the Act, for purposes of determining appropriate product comparisons to the U.S. sales, the Department considers all products, as described in the "Scope of the Order" section of this notice above, that were sold in the comparison market in the ordinary course of trade. In accordance with sections 771(16)(B) and (C) of the Act, where there are no sales of identical merchandise in the comparison market made in the ordinary course of trade, we compare U.S. sales to sales of the most similar foreign like product based on the characteristics listed in sections B and C of our antidumping questionnaire: grade, specification, dimension, thickness, and surface treatment.

Comparisons to Normal Value

To determine whether sales of subject merchandise to the United States were made at less than fair value, pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), we compared the respondents' monthly weighted-average EP or CEP sales made in the United States to unaffiliated customers with the monthly weighted-average NV, as described in the

United States Price and Normal Value sections of this notice, below. Further, we granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.¹¹

Date of Sale

The Department will normally use invoice date, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if it better reflects the date on which the material terms of sale are established.¹² For Jindal's sales to the United States, as in prior reviews, we preliminarily determine to use the invoice date as the date of sale. In this administrative review, Jindal requested that the Department use the purchase order date as the date of sale. According to Jindal, the material terms for all of its sales to U.S. customers are established on the purchase order date, and the terms established in the purchase order remained constant for all U.S. sales made during the POR. Jindal reported that it negotiates and finalizes the actual terms of sale depending upon market conditions prevailing at the particular point in time of negotiation. The company then issues a pro-forma invoice within one to three days to confirm the terms of payment, delivery, etc., as well as the allowable tolerances¹³ with respect to quantity.¹⁴ Any variation in quantity from the pro-forma invoice, which Jindal insists never exceeds the allowable tolerance, is reflected in the commercial invoice, which is issued 25 to 30 days after the purchase order.¹⁵ Thus, it appears from Jindal's explanation that the pro-forma invoice, and not the purchase order, is the document that finalizes the material terms of sale, including the

¹¹ See Final Modification for Reviews.

¹² See 19 CFR 351.401(i).

¹³ A tolerance is an allowable, but *non-deliberate*, amount of variation from a physical quantity.

¹⁴ See Jindal's Original Questionnaire Response of December 28, 2011, sections B to C, at 4, section C (Jindal's Original Response B to C), and Jindal's First Supplemental Response to sections A to C of March 28, 2012, at 13, 50-53 (Jindal's First Supplemental Response A to C).

¹⁵ Id. Jindal's First Supplemental Response A to C at 51.

allowable tolerances in quantity. On this basis, we cannot rely, as Jindal has requested, on the purchase order date to establish date of sale.

Jindal's explanation provides a basis to rely on the date of the pro-forma invoice to establish the date of sale. However, Jindal did not provide the Department with the dates that the pro-forma invoices were issued to its customers for all of its sales of subject merchandise to the United States. Therefore, we preliminarily determine that Jindal has not demonstrated an alternative date on which the material terms of sale were established to warrant departure from our practice of relying on invoice date as date of sale. As such, we will continue to use the invoice date as the date of sale for Jindal's sales of subject merchandise to the United States because the record otherwise demonstrates that this is when the material terms of the sale are established.

Regarding Jindal's home market sales, Jindal reported invoice date as date of sale for the home market, and the record does not indicate that material terms of sale are established at a later or earlier date in the sales process.¹⁶ As such, we are preliminarily relying upon invoice date as date of sale in the home market.

Polyplex reported the invoice date as the date of sale for both its home market sales and its sales of subject merchandise to the United States, and the record does not indicate that material terms of sale are established at a later or earlier date in the sales process. Therefore, for both Polyplex's home market sales and its sales to the United States, we have preliminarily determined that the invoice date is the date of sale.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP sale. Sales

¹⁶ See Jindal's Original Response B to C, at B-19.

are made at different LOTs if they are made at different marketing stages (or their equivalent).¹⁷

Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.¹⁸ In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (i.e., NV based on either home market or third country prices),¹⁹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²⁰

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price

¹⁷ See 19 CFR 351.412(c)(2).

¹⁸ See Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999, 51001 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

¹⁹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

²⁰ See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001) (Micron Tech).

comparability (i.e., no LOT adjustment is practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.²¹

In this administrative review, we obtained information from both respondents regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. Jindal

Jindal reported that it made EP sales in the U.S. market to both unaffiliated end users and to unaffiliated trading companies.²² We examined the selling activities performed for U.S. sales for both channels of distribution and found that Jindal performed selling functions, which we have grouped into the following four activities: (1) sales and marketing (sales forecasting, strategic/economic planning, order input/processing, etc.); (2) freight and delivery (including packing); (3) technical services/warranties (engineering services and technical assistance); and (4) inventory management.²³ Accordingly, based on our examination of the individual selling functions performed within those categories, we find that Jindal performed the same selling functions in all four categories to the same degree in both channels of distribution.²⁴ Because the selling activities to Jindal's customers did not vary for sales in the United States through its two channels of distribution, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the comparison market, Jindal reported that it made sales to both unaffiliated end users and to unaffiliated trading companies, and that most selling functions were

²¹ See, e.g., OJ from Brazil, 75 FR at 51001.

²² See Jindal's Original Questionnaire Response of December 12, 2011, Section A, at 14 (Original Response, Section A), and Jindal's Original Response B to C, at C-11.

²³ See Jindal's Original Response, Section A, at Exhibit A-5 and 14-22, and Jindal's First Supplemental Response A to C, at 36.

²⁴ Id.

performed at the same or similar levels of intensity in both channels of distribution.²⁵ We examined the following three activities performed in the comparison market: (1) sales and marketing (sales forecasting, strategic/economic planning, order input/processing, etc.); (2) freight and delivery (including packing); and (3) inventory management. We find that Jindal performed the same selling functions in all three categories to the same or similar degree in both channels of distribution.²⁶ Accordingly, based on these selling functions noted above, we find that Jindal performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for all comparison market sales. Although the comparison market sales are made through two channels of distribution, because the selling activities to Jindal's customers did not vary between these channels, we preliminarily determine that there is one LOT in the comparison market for Jindal.

Finally, we compared the EP LOT to the comparison market LOT and found that the selling functions performed for U.S. and comparison market customers do not differ significantly, as Jindal performed the same selling functions at the same or similar level of intensity in both markets. With regard to the one difference in the reported level of intensity, while Jindal did not provide technical services/warranties in the comparison market as it did in the United States market, Jindal performs this selling function at a low intensity level (rarely or seldom) in the United States market. Therefore, we determine that sales to the U.S. and comparison market during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.²⁷

²⁵ Id., at Exhibit A-5.

²⁶ Id., at Exhibit A-5.

²⁷ See Memorandum to Nicholas Czajkowski from Elfi Blum: Analysis Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal Poly Films Ltd. (Jindal), dated July 30, 2012 (Jindal Preliminary Calculation Memorandum).

2. Polyplex

Polyplex reported that it made CEP sales in the U.S. market to its U.S. affiliate Polyplex (America), Inc. (PA). We examined the selling activities performed for U.S. sales for all three channels of distribution (Polyplex to PA, Polyplex to un-affiliated U.S. customers, and PA to un-affiliated U.S. customers) and found that Polyplex performed selling functions, which we grouped into the following four activities: (1) sales and marketing (sales forecasting, strategic/economic planning, order input/processing, etc.); (2) freight and delivery (including packing); (3) technical services/warranties (engineering services and technical assistance); and (4) inventory management.²⁸ Because the first two channels of distribution represent selling functions performed by Polyplex in the U.S. market, the Department is preliminarily collapsing these two channels into one for analysis purposes,²⁹ and creating one channel of distribution in the U.S. market. Based on our examination of the individual selling functions performed within the aforementioned categories, we find that Polyplex performed the same selling functions in all four categories to varying degrees in both channels of distribution.³⁰ Even though the degree to which Polyplex performed certain selling functions varied across both channels, the differences were not significant enough to constitute a different LOT in the United States. Therefore, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the comparison market, Polyplex reported that it made sales to both end users and to distributors. We examined the following three activities performed in the comparison market: (1) sales and marketing (sales forecasting, strategic/economic planning, order input/processing, etc.); (2) freight and delivery (including packing); (3) technical

²⁸ See Polyplex's Section A Questionnaire Response at 15-20 and Exhibit A-8 (December 13, 2011) and Polyplex's First Supplemental Response A to C at Revised Exhibit A-8 (April 4, 2012).

²⁹ See Memorandum to Nicholas Czajkowski from Toni Page: Analysis Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Polyplex Corporation Ltd. (Polyplex), dated July 30, 2012 (Polyplex Preliminary Calculation Memorandum).

³⁰ Id.

services/warranties (engineering services and technical assistance); and (4) inventory management. We find that Polyplex performed the same selling functions in all four categories to varying degrees in both channels of distribution.³¹ Even though the degree to which Polyplex performed certain selling functions varied across the two channels, the differences were not significant enough to constitute a different LOT in the comparison market.³² Therefore, we preliminarily determine that there is one LOT in the comparison market for Polyplex.

Finally, we compared the CEP LOT to the comparison market LOT. In accordance with Micron Tech, we removed the selling activities as set forth in section 772(d) of the Act from the U.S. LOT prior to performing the LOT analysis. After removing the appropriate selling activities, we compared the U.S. LOT to the comparison market LOT. Based on our analysis, we preliminarily find that the U.S. sales are at a less advanced LOT than the comparison market sales.³³

As stated previously, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (i.e., no LOT adjustment is possible), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. Therefore, we are preliminarily granting to Polyplex a CEP offset.

United States Price

1. Jindal

We used EP methodology for Jindal's U.S. sales, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted based on

³¹ Id.

³² See Polyplex Preliminary Calculation Memorandum.

³³ Id.

the evidence on the record. In accordance with sections 772(a) and (c) of the Act, we calculated EP based on packed prices, adding excess and/or separately recovered freight Jindal charged its unaffiliated customer. We made deductions from the starting price for discounts, in accordance with 19 CFR 351.401(c). We also made deductions from the starting price, where applicable, for movement expenses, including domestic inland freight and insurance, domestic brokerage and handling, international freight and marine insurance, and U.S. inland freight, in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e).

2. Polyplex

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

For purposes of this review, Polyplex classified all of its export sales of PET Film to the United States as CEP sales. During the POR, Polyplex made sales in the United States through its U.S. affiliate PA, which then resold the merchandise to unaffiliated customers. The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price for discounts, in accordance with 19 CFR 351.401(c). We also made deductions for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, as well as foreign and U.S. warehousing), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because Polyplex reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, late payment fees, and indirect selling expenses, including inventory carrying costs, incurred in the United States and India and associated with economic activities in the United States.

In accordance with section 772(c)(1)(C) of the Act, we will adjust Jindal's and Polyplex's U.S. price to account for countervailing duties attributable to subject merchandise in order to offset export subsidies received by Jindal and Polyplex.

Information about the specific adjustments and our analysis of the adjustments is business proprietary, and is detailed in the "Adjustments" section of the preliminary calculation memoranda.³⁴

Cost of Production Analysis

For both Jindal and Polyplex, the Department disregarded sales below cost of production (COP) in the most recently completed administrative antidumping duty review.³⁵ We therefore have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Thus, pursuant to section 773(b)(1) of the Act, we examined whether Jindal's and Polyplex's sales in the home market were made at prices below the COP during the POR.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated Jindal's and Polyplex's COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for selling, general and administrative (SG&A), interest expenses, and home market packing costs. See "Results of the COP Test" section below for treatment of home market selling expenses. We examined the cost data and determined that our quarterly cost

³⁴ See Jindal Preliminary Calculation Memorandum; see also Polyplex Preliminary Calculation Memorandum.

³⁵ See Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 45699, 45701 (August 6, 2008), at "B. Cost of Production Analysis," unchanged Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review, 73 FR 71601 (November 25, 2008); see also Certain Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 71 FR 18715, 18719 (April 12, 2006) at "Normal Value, C. Cost of Production (COP) Analysis," unchanged in Certain Polyethylene Terephthalate Film, Sheet and Strip from India: Final Results of Antidumping Duty Administrative Review, 71 FR 47485 (August 17, 2006).

methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data as adjusted below.

Based on our analysis of Jindal's questionnaire responses, we determined that no adjustments to Jindal's reported COP were necessary.³⁶ Based on our analysis of Polyplex's questionnaire responses, we made the following adjustments to Polyplex's reported COP: (1) we revised the G&A expense rate to include company-wide G&A expenses, other expenses, and depreciation in the numerator of the calculation, and depreciation in the cost of goods sold (COGS) denominator; and (2) we revised the financial expense rate to include scrap sales in the COGS denominator.³⁷

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, and actual direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

³⁶ See Memorandum to Neal M. Halper, Director, Office of Accounting from Christopher Zimpo, Case Accountant, Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strips from India, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Jindal Poly Films Ltd, dated July 30, 2012.

³⁷ See Memorandum to Neal M. Halper, Director, Office of Accounting from Angie Sepulveda, Case Accountant, Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strips from India, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Polyplex Corporation Ltd., dated July 30, 2012.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product during the POR are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given product during the POR are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent substantial quantities within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Because we are applying our standard annual-average cost test in these preliminary results, we have also applied our standard cost-recovery test with no adjustments.

We found that, for certain specific products, more than 20 percent of Polyplex's home market sales during the POR were at prices less than the COP and, in addition, the below-cost sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act. Our cost test for Jindal revealed that none of Jindal's sales for any of its models were at prices below the COP.

Normal Value

Price-To-Price Comparison

We based NV on the starting prices of Jindal's and Polyplex's sales to unaffiliated home market customers, pursuant to sections 773(a)(1)(A) and 773(a)(1)(B)(i) of the Act. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions from NV for movement expenses (i.e.,

inland freight and inland insurance) where appropriate. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made, where indicated, circumstance-of-sale adjustments for home market direct selling expenses, including imputed credit expenses, and for discounts and rebates. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, because commissions were paid only in the home market, we made an upward adjustment to NV for the lesser of: 1) the amount of commission paid in the home market; or 2) the amount of the indirect selling expenses incurred in the home market on U.S. sales.³⁸ In accordance with sections 773(a)(6)(A) and (B) of the Act, we also deducted home market packing costs and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act.³⁹

Constructed Value-To-Price Comparison

After disregarding certain sales as below cost, as described above, home market sales of contemporaneous identical and similar products existed that allowed for price-to-price comparisons for all margin calculations. Therefore, it was not necessary for the Department to rely on CV for any comparisons for these preliminary results.

Use of Facts Otherwise Available

Section 776(a) the Act provides that the Department shall apply “facts otherwise available” if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to

³⁸ See 19 CFR 351.410(e).

³⁹ See Jindal Preliminary Calculation Memorandum; see also Polyplex Preliminary Calculation Memorandum.

subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used, can be used without undue difficulties, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied.

For the reasons discussed below, the Department determines that, in accordance with section 776(a)(2)(A) of the Act, the use of facts otherwise available is appropriate for the preliminary results with respect to Polyplex’s sales of non-prime merchandise in the United States.

Polyplex reported POR sales and production of non-prime merchandise under the product code TFOG (Transparent Film Other Grade).⁴⁰ Polyplex reported TFOG sales in the United

⁴⁰ See Polyplex’s Section A Questionnaire Response at 29 (December 13, 2011); see also Polyplex’s First Supplemental Response A to C at Exhibit BS-2.

States and home markets during the POR.⁴¹ This TFOG merchandise is considered by the company to be a basket category, as it includes PET Film of different product characteristics. Polyplex explains that the product characteristics (e.g., grade, specification, dimension, thickness, and surface treatment) of TFOG cannot be identified because this merchandise is a mix of various film product types.⁴² Therefore, in its questionnaire responses, Polyplex did not identify TFOG sales based on individual product characteristics.

Polyplex explained that the TFOG merchandise is a mixture of different grades of films for which specific TFOG characteristics cannot be provided. However, the Department finds that the use of facts otherwise available is appropriate for the preliminary results with respect to Polyplex, in accordance with section 776(a)(2)(B) of the Act, because Polyplex has not provided information requested for purposes of these preliminary results. A review of the record indicates that: (1) merchandise reported as TFOG is in fact prime merchandise; and (2) Polyplex has the capabilities to provide the specific information regarding the product characteristics of its TFOG sales. As such, the Department finds that Polyplex has withheld information that is necessary a comparison of sales in the U.S. and home markets.

As an initial matter, Polyplex has indicated that PET Film that is reported as TFOG is in fact actually prime merchandise. Specifically, Polyplex stated there are three circumstances where it will re-classify prime merchandise as TFOG: (1) off cut rolls; (2) downgraded rolls; and (3) slow moving/non-moving inventory. Polyplex has reported that in two of these scenarios (off cut rolls and slow/non-moving inventory), the company considers the goods to be prime merchandise.⁴³ In addition, the Department finds that the company is re-classifying some of its subject merchandise as TFOG after production. For example, Polyplex stated that prime

⁴¹ See e.g., Polyplex's Third Supplemental Response at 4 (July 18, 2012).

⁴² See Polyplex's Third Supplemental Response at 4.

⁴³ See Polyplex's First Supplemental Response A to C at 16-17.

merchandise from off cut rolls may be re-classified for specific end-users.⁴⁴ Given that Polyplex is able to provide product characteristics for its prime merchandise, the Department finds that Polyplex is aware of the product characteristics of this merchandise when re-classifying it as TFOG. In addition, the Department finds that a portion of Polyplex's sales reported as TFOG are in fact prime merchandise.

Finally, Polyplex has provided sample documentation for two of its TFOG sales in the United States during the POR.⁴⁵ These documents clearly include product characteristics for these two TFOG sales.⁴⁶ As such, we preliminarily conclude that Polyplex can identify, by product characteristics, the products classified as TFOG.

Therefore, for the purposes of these preliminary results, the Department is treating Polyplex's U.S. TFOG sales as prime merchandise. The Department is re-classifying all TFOG sales in the United States as prime merchandise and assigning them CONNUMs based on the product characteristics shown in the sample documents described above. These re-classified sales are in-turn being appropriately matched to identical or similar prime merchandise sales in the home market.⁴⁷

Currency Conversions

Pursuant to section 773A(a) of the Act and 19 CFR 351.415, we made currency conversions for Jindal's and Polyplex's sales based on the daily exchange rates in effect on the dates of the relevant U.S. sales as certified by the Federal Reserve Bank of New York.

Non-Selected Respondent

With regard to determining an appropriate rate to be applied to the non-selected

⁴⁴ See Polyplex's First Supplemental Response A to C at 16.

⁴⁵ See Polyplex's First Supplemental Response A to C at 35, Exhibits CS-04 and CS-04A.

⁴⁶ A full discussion of these business proprietary documents is set forth in the Polyplex Preliminary Calculation Memorandum.

⁴⁷ See Polyplex Preliminary Calculation Memorandum.

respondent SRF, the statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777 A(c)(2) of the Act. The Department's practice in cases involving limited selection of respondents has been to look for guidance in section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. The Department generally weight-averages the rates calculated for the mandatory respondents, excluding zero and de minimis rates and rates based entirely on facts available, and applies that resulting weighted-average margin to non-selected respondents.⁴⁸ Section 735(c)(5)(B) of the Act provides that where all margins are zero rates, de minimis rates, or rates based entirely on facts available, the Department may use "any reasonable method" for assigning the rate to non-selected respondents.

In this review, we have preliminarily calculated zero or de minimis weighted-average dumping margins for all companies selected as mandatory respondents. In previous cases, the Department has determined that a "reasonable method" to use when the rates of the respondents selected for individual examination are zero or de minimis is to apply to those companies not selected for individual examination the average of the most recently determined rates that are not zero, de minimis, or based entirely on facts available (which may be from a prior review or new shipper review).⁴⁹ If a non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company, including when that rate is zero or

⁴⁸ See, e.g., Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review, 73 FR 8273 (February 13, 2008), unchanged in Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008).

⁴⁹ See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

de minimis.⁵⁰

The Department has stated that it will no longer use its zeroing methodology in administrative reviews with preliminary determinations issued after April 16, 2012.⁵¹ Therefore, the Department will normally not apply any rates calculated in prior reviews using the zeroing methodology to the non-selected companies in these reviews. However, the Department conducted a new shipper review (NSR) of SRF, in which the Department calculated a zero rate for SRF and this rate is contemporaneous with the most recently completed administrative review.⁵² In addition, in the NSR, SRF had one sale of subject merchandise to the United States during the POR, and the calculated margin was zero. Thus, the Department calculated this margin without the application of the zeroing methodology. Based on this, and in accordance with the statute, a reasonable method for determining the weighted-average dumping margin for SRF is to use the rate calculated for SRF in the NSR because this rate was calculated without the Department's zeroing methodology and the NSR in which the rate was calculated is contemporaneous with the most recently completed administrative review.

Preliminary Results of Review

We preliminarily determine the following weighted-average dumping margins exist for the period July 1, 2010, through June 30, 2011.

Manufacturer/Exporter	Weighted-Average Margin
Jindal Poly Films Limited	0.00%
Polyplex Corporation Limited	0.00%

⁵⁰ Id.

⁵¹ See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

⁵² See Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty New Shipper Review, 76 FR 30908 (May 27, 2011).

SRF Limited	0.00%
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Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. We will instruct CBP to liquidate entries of merchandise produced and/or exported by Jindal, Polyplex, and SRF. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For assessment purposes, where the respondent reported the entered value for its sales, we calculated importer-specific (or customer-specific) ad valorem assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales.⁵³ However, where the respondent did not report the entered value for its sales, we will calculate importer-specific (or customer-specific) per-unit duty assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any per-unit duty assessment rate calculated in the final results of this review is above de minimis (i.e., at or above 0.50 percent). For any individually examined respondents whose weighted-average dumping margin is above de minimis in the final results, we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the importer's examined sales to the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).⁵⁴ Pursuant to 19 CFR 351.106(c)(2), we intend to instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is zero or de minimis (i.e., less than 0.50 percent).⁵⁵

⁵³ See 19 CFR 351.212(b).

⁵⁴ In these preliminary results, the Department applied the assessment rate calculation method adopted in Final Modification for Reviews, i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

⁵⁵ See 19 CFR 351.106(c)(1).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from the India entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for company under review will be the rate established in the final results of this review (except, if the rate is zero or de minimis, i.e., less than 0.5 percent, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all others rate for this proceeding, 5.71 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the Federal Register.⁵⁶ Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this

⁵⁶ See 19 CFR 351.310.

notice.⁵⁷ If a hearing is requested, the Department will notify interested parties of the hearing schedule. Oral presentations will be limited to issues raised in the briefs.

Interested parties are invited to comment on the preliminary results of this review. The Department typically requests that interested parties submit case briefs within 30 days of the date of publication of this notice. However, we plan to issue a post-preliminary supplemental questionnaire and, therefore, will be extending the case brief deadline. The Department will inform interested parties of the updated briefing schedule when it has been confirmed. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed not later than five days after the time limit for filing case briefs.⁵⁸ Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Executive summaries should be limited to five pages total, including footnotes.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the Federal Register, unless otherwise extended. See section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

⁵⁷ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed.

⁵⁸ See 19 CFR 351.309(c) and (d) (for a further discussion of case briefs and rebuttal briefs, respectively).

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 30, 2012 _____
Date

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